

Ty Booth

From: Ty Booth
Sent: Monday, November 25, 2019 3:59 PM
To: j.pelesky@mchlawoffices.com
Cc: 'lynnw@gth-law.com'; Robert Mack
Subject: Mount Rainier Resort at Park Junction / 3rd Status Hearing / Application #913779
Attachments: State Health.pdf

Dear Examiner Causseaux-

On November 14, 2019, you issued a decision regarding the status hearing held on July 31, 2019. Per the decision, a Request for Reconsideration may be filed on or before November 25, 2019 (today). This Department has reviewed/discussed the decision. We are filing a Reconsideration regarding the following matters. Note, I am sending this email as a heads-up. We will formally file the Request by the close of business today and route the official copy to you for consideration:

1. Milestones:

- A. Conclusion 3 (page 20) and decision (page 21) reference milestones set forth in exhibit 32. However, we believe that should actually be exhibit 31 which was submitted by Bill Lynn (dated October 14, 2019). The decision should be revised to reflect the correct exhibit.
- B. Prior to issuance of your decision, the Applicant/County had correspondence and meetings regarding benchmarks. We agree with Applicant proposed milestones 1 and 2 as addressed in Mr. Lynn's memorandum dated October 14, 2019 (although the suggested February 15th, date is a Saturday). However, the County has not ever previously stated it agrees with and/or approves of the milestones proposed by the Applicant in the memorandum of October 14, 2019. On that note, the County proposes the following:
 - (1) The County recommends that the Examiner keep the balance of the milestone issue open until February 18, 2020 (first workday after February 15th), so that the County and Applicant have time to meet and/or develop a more specific list of milestones including, but not limited to, actual construction dates for buildings and related infrastructure. Of note, the November/December holidays are upon us and such is why we suggest the date in the middle of February.

- (2) By February 18, 2020, the Applicant and/or County will submit a list of agreed to milestones to the Examiner. The milestones would then be memorialized in the Examiner's decision itself.
- (3) If there is disagreement between the Applicant/County on one or more milestones, the areas of disagreement shall also be presented to the Examiner on or before February 18, 2020, for resolution. The Examiner may then determine that the hearing be re-opened to resolve any disagreement(s) should they exist.

Note, agreement to work on milestones prior to February 18, 2020, does not mean the County will not seek revocation of the conditional use permit. While the County is not seeking revocation at this time, it reserves the right to do so in the future.

2. Regulations.

A. Page 5, the correct spelling of Felix Marh is Mahr.

B. Toward the end of Mr. Mahr's testimony, the decision states the following: "Mr. Risvold insists that they cannot count wetland buffers as part of their wildlife habitat requirements. They have not resolved this issue. In 2016 Mr. Risvold said the Examiner must resolve the issue. The applicant is now prepared to offer the County a solution."

Additionally, in Finding 11J (pages 16-17): "Following these agreements at a meeting, the County Wetland Biologist decided we should wait and let the Hearing Examiner determine the changes for the buffers"

As clarification, although Mr. Risvold was not at the hearing, he did not say the Examiner "must resolve this issue". What he said in a review letter was that this "... may be an issue whose resolution is left to the Examiner". The point Mr. Risvold is making is that if the Applicant wished to argue the County's position on the matter of wildlife habitat, they could appeal the County decision to the Examiner.

C. At a minimum, finding 16 (page 19), finding 18 (page 20), and conclusion 3 (page 20), addresses compliance with current regulations. For example, conclusion #3 states, in part "compliance with the new storm drainage, critical areas, sewer and water standards provides a more environmentally sensitive project than originally planned." On that note:

- (1) For various reasons, it does appear that the proposal is subject to current site development regulations (for example, stormwater regulations). There have been prior discussions/correspondence with the Applicant on this matter.

(2) However, the County is not aware of the project needing to comply with current wetland and fish/wildlife habitat area regulations. While we would not object if the proposal were required to comply with the current regulations, we do make note that such could have a significant impact on the proposal (notably increased buffer widths from wetlands and streams).

3. Water right, plan, permit, etc. The decision discusses these matters in various locations. It is possible some of the terminology/status of these issues might have been a bit mis-construed in some locations within the decision. On a related matter, we received the attached email from State Health on November 21, 2019. As part of future meetings between the Applicant/County regarding milestones (which will necessarily need to include discussion involving water) it may be subsequently necessary to clarify some of the language in the decision just to make sure the decision accurately reflects the status on these matters.
4. Conditions 101 and 102 of the 2001, decision, requires the approvals of other agencies prior to issuance of the site development permit. Notably, this has involved State Health and Ecology. In recent years, for newer projects, the County has no longer been recommending conditions of approval to the Examiner that requires an Applicant obtain permits from other agencies. Obviously an Applicant needs to obtain any and all permits necessary from other local, State, and Federal agencies...but we have just not been including them as recommended conditions...as it is an Applicants responsibility. Perhaps amending or deleting these conditions through a status hearing is not possible. However, we would request the Examiner at least entertain the possibility.

Ty Booth

From: Kropack, Jennifer (DOH) <Jennifer.Kropack@DOH.WA.GOV>
Sent: Thursday, November 21, 2019 5:37 PM
To: Dan Cardwell; Vaughan Cary; Ty Booth
Subject: Heads Up to you

DOH will approve the Park Junction Water & Sewer District water system plan (WSP) on 11/27/19. Just wrapping up the final details with some out of office days in between.

You are all copied formally in the DOH letter as well.

Regards,

Jennifer Kropack
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